

## Potts, Mark

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**From:** Dwight Bradshaw <Dwight.Bradshaw@LA.GOV>  
**Sent:** Thursday, April 14, 2016 2:49 PM  
**To:** Potts, Mark  
**Subject:** FW: asbestos concern in Pine Bluff, Arkansas  
**Attachments:** MOU ADEQ and Pine Bluff on demolitions.docx; ADI\_A090003 Residential Structures demolished by Municipalities for Public Safety.pdf

**Importance:** High

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**From:** Dwight Bradshaw  
**Sent:** Thursday, April 14, 2016 9:28 AM  
**To:** 'Eppler, David'  
**Subject:** asbestos concern in Pine Bluff, Arkansas  
**Importance:** High

David,

I got a call from a free-lance reporter about a municipal demolition project underway in Pine Bluff, Arkansas. It appears that they may be violating NESHAP Asbestos regulations as they are demolishing ~ 600 houses as a project (all addresses mapped out prior to the start of the project). He stated that there are no asbestos inspections/removals of these houses prior to demolition. He sent me a copy of the signed agreement (attached) between ADEQ and the City of Pine Bluff which does not seem to agree with the EPA Applicability Determination for a project like this (attached, which was regarding a question from Arkansas!).

Also, from his description, they have problems with OSHA too. They are using inmate labor to demolish the blighted properties. They are not supplying the inmates with any PPE. He told me he has numerous photos of the inmates working in dust clouds from the demolitions with NO PPE. The inmates are being paid \$10 per day and will receive time off of their sentence to do this work.

Who should this go to at EPA?

Dwight Bradshaw  
Senior Environmental Scientist  
LDEQ/OEC/Inspection Division  
201 Evans Road, Bldg. 4, Suite 420  
New Orleans, LA 70123  
Office Phone (504) 736-7706  
Cell (504) 388-8956



## U.S. Environmental Protection Agency Applicability Determination Index

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**Control Number: A090003**

**Category:** Asbestos  
**EPA Office:** CAMPD  
**Date:** 07/03/2008  
**Title:** Residential Structures Demolished by Municipalities for Public Safety  
**Recipient:** Blevins, John  
**Author:** Gigliello, Ken  
**Comments:** See related applicability determination filed as ADI Control No. 930828.

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Part 61, M

Asbestos

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**Abstract:**

**Q:** Does the applicability determination issued by EPA on July 15, 1993 (see ADI Control Number 930828) conflict with EPA's Clarification of Intent published in the Federal Register on July 28, 1995, as to the applicability of 40 CFR part 61, subpart M (the asbestos NESHAP) to single-family homes?

**A:** No. EPA believes that these documents are not in conflict, but rather are complementary and apply to different factual situations. The 1993 applicability determination responds to the issue of a large municipality-orchestrated project where multiple single-family homes are being demolished as part of that large project over the course of the same planning or scheduling period, which, for most municipalities, we believe is done on a fiscal or calendar year basis, or in accordance with the terms of a contract. It is EPA's interpretation that the demolition of such multiple single-family homes under such circumstances by a municipality is subject to the asbestos NESHAP regulation, notwithstanding the residential building exclusion contained within the definition of "facility" in the asbestos NESHAP. The 1995 Clarification of Intent, on the other hand, deals with the demolition of two or more single-family homes on the same site (e.g., a city block) that are under the control of a common owner or operator. Under that factual scenario, the single-family homes are considered to be (or, perhaps, to be a part of) an installation, as defined under the asbestos NESHAP, and are subject to the asbestos NESHAP regulation.

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**Letter:**

July 3, 2008

**MEMORANDUM**

**SUBJECT:** Applicability of the Asbestos NESHAP to Demolitions of Residential Structures by Municipalities Due to Public Safety Concerns - Letter from ADEQ

**FROM:** Ken Gigliello, Acting Director  
Compliance Assessment and Media Programs Division Office of Compliance

**TO:** John Blevins, Director  
Compliance Assurance and Enforcement Division  
Region VI



This memorandum responds to your request regarding the March 14, 2008 letter from the Arkansas Department of Environmental Quality (ADEQ). Their letter requests EPA's position on the applicability of the National Emission Standard for Asbestos (asbestos NESHAP), 40 CFR Part 61, Subpart M, to city-ordered demolitions of multiple residential buildings for reasons of public health, welfare, and safety. ADEQ also asked EPA to inform them if EPA did not agree with their conclusion that: 1) EPA's July 28, 1995 Asbestos NESHAP Clarification of Intent (1995 Clarification, which was published in the Federal Register (60 FR 38725), and July 15, 1993 Applicability Determination (control #930828) issued by the Stationary Source Compliance Division in OAQPS, our predecessor organization, are in conflict, and 2) the 1995 Clarification is the controlling document when analyzing the applicability of the asbestos NESHAP to such demolitions.

EPA does not agree that the documents are inconsistent based on our reading of the 1990 regulation, the 1993 Applicability Determination, which relies heavily on the regulation's preamble language, and the 1995 Clarification. In fact, based on our reading of the aforementioned documents, it is EPA's position that demolitions of individual residential buildings are regulated if they are being demolished as part of a larger project<sup>1</sup> or if the residences meet the definition of an installation, e.g., more than one residence on the same site or one residence being demolished along with commercial buildings on the same site under the control of the same owner or operator.

Accordingly where numerous residential buildings, e.g., 20 to 100 homes as discussed in the incoming ADEQ letter, are being demolished as part of one project (for reasons of public health, welfare, and safety in the case of ADEQ), it is EPA's position that such demolitions are subject to the asbestos NESHAP requirements.

In addition, we have one comment on the two draft ADEQ Clarification Memoranda included as attachments in the March 14 letter from ADEQ. The draft designated as 2008-01 contains the following question: "Does the demolition/renovation involve more than one small residential building within 1500 feet of each other by the same owner/operator (or owner or operator under common control) as part of the same project?" This appears to be an effort to define a single "site" as that term is used within the definition of installation. As noted in the 1995 Clarification, however, the term "site" is not defined in the asbestos NESHAP and EPA has never provided specific boundaries for that term under the asbestos NESHAP. Accordingly, the use of 1500 feet as the criteria to define a site is not consistent with the Federal asbestos NESHAP regulation. Multiple residential buildings being demolished on the same site by an owner or operator would be subject to the asbestos NESHAP, regardless of their proximity to one another.

If you have questions, please call me at (202) 564-7047. The Office of Regulatory Enforcement, the Office of General Counsel and the Office of Air Quality Planning and Standards have reviewed this memorandum.

cc: Susan Fairchild, OAQPS  
Randy Hill, OCE  
Pam Mazakas, OCE  
Tahani Rivers, OCE  
Chris Kaczmarek, OGC  
Phyllis Flaherty, OC

<sup>1</sup> Demolitions planned at the same time or that are part of the same planning or scheduling period are considered part of the same project. For municipalities, the scheduling or planning is often done on a fiscal or calendar year or the term of the contract. [See 60 FR 38725, FN 1.]



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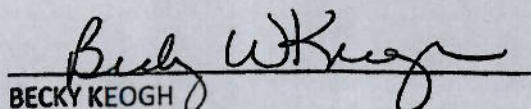
**MEMORANDUM OF UNDERSTANDING**  
**REGARDING NUISANCE ABATEMENT DEMOLITION**  
**BETWEEN THE ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**AND CITY OF PINE BLUFF**

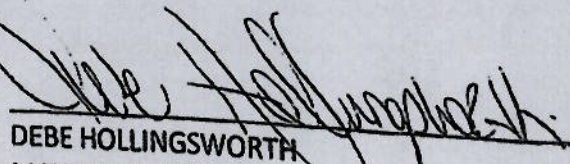
On August 21, 2015, the Director of the Arkansas Department of Environmental Quality (ADEQ), Becky Keogh, and the City of Pine Bluff Mayor Debe Hollingsworth, along with other members of each organization, met to determine a compliance plan for nuisance abatement demolitions subject to Clarification Memorandum 2008-2 (CM 2008-2) in Pine Bluff, Arkansas, in conjunction with the Arkansas Department of Community Corrections.

It was agreed upon in the meeting that the City of Pine Bluff would continue to fall under the ADEQ CM 2008-2 (1-1-1-Rule) for nuisance abatement demolition of residential dwellings. During the meeting, the City of Pine Bluff provided a map of the existing residential dwellings which have been condemned as nuisances and agreed to the following:

- That only one residential dwelling per city block per year will be demolished under the 1-1-1-Rule, exempting the City from asbestos inspections on said structures.
- That the City will notify Stuart Spencer, ADEQ Air Division Chief, of the location(s) of each residential building to be demolished and the approximate date(s) the demolition(s) will occur prior to any demolition activity subject CM 2008-2.
- The City has agreed to "wet" each residential building prior to demolition as a show of good faith management practices and will "wet" the truck(s) transporting debris prior to disposal at a Class 1 permitted landfill agreeing to accept such waste. All landfill waste receipts shall be maintained by the City and provided to the ADEQ upon request.
- The City has agreed to notify the residents within the respective block(s) or similar small compact area in which a nuisance abatement demolition(s) will occur so they will be aware of the demolition activity taking place.
- The City will monitor the permit process to assure that a second or subsequent demolition permit is not issued to an individual for the same city block within a year.
- The City shall provide periodic updates regarding the progress of the nuisance abatement/demolition activity to ADEQ on a regular basis, at a minimum frequency of one update per quarter of the calendar year.

IT IS SO AGREED THIS 21<sup>st</sup> day of August, 2015.

  
BECKY KEOGH  
DIRECTOR OF ADEQ

  
DEBE HOLLINGSWORTH  
MAYOR, CITY OF PINE BLUFF, ARKANSAS



2016  
FOIA 9793

**Potts, Mark**

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**From:** Ethan Tate <ethanethantate@gmail.com>  
**Sent:** Wednesday, April 20, 2016 11:50 AM  
**To:** Potts, Mark  
**Subject:** Re: Pine Bluff, AR Prison Project

Hi Mark,

Thanks for talking with me on Monday.

I spoke with Jennah on the phone after getting it cleared up that it must go through the media office. She seemed interested in putting something together between you and myself, with hopefully Steve Gilrein in the mix too.

My timetable for this is narrowing, and if we could speak, if only for 10-15 minutes, it would help tremendously.

All the best,  
Ethan

On Mon, Apr 18, 2016 at 2:47 AM Ethan Tate <[ethanethantate@gmail.com](mailto:ethanethantate@gmail.com)> wrote:  
Mr. Potts,

My name is Ethan Tate and I am a writer based out of Pine Bluff, Arkansas.

I have been speaking with Dwight Bradshaw about contacting a source at EPA region 6 and he called me to say you would give me a call.

I found you email and thought I'd send my information directly.

Currently in Pine Bluff there is a 600 house city-wide demolition project underway using inmate labor. I believe we'd have a fruitful conversation on the topic.

I'd very much like to speak with you, myself.

My number is 479.883.5635

All the best,

Ethan Tate

## **Potts, Mark**

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**From:** Dwight Bradshaw <Dwight.Bradshaw@LA.GOV>  
**Sent:** Thursday, April 14, 2016 3:04 PM  
**To:** Potts, Mark  
**Subject:** Contact Info

Ethan Tate

[ethanethantate@gmail.com](mailto:ethanethantate@gmail.com)

Phone Number is: 479-883-5635

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